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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
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12 IN RE CARRIER IQ, INC.,
13 CONSUMER PRIVACY LITIGATION.

Case No. 12-MD-2330-emc

14 DECLARATION OF STEPHANIE MILLER
15

16 I, Stephanie Miller, declare as follows:

17 1. I am a resident of Missouri and am over the age of eighteen (18) years of
18 age. I hold the position of Pricing Manager for Sprint. I have been in this department since
19 2006 and have been a Sprint employee since 2001. I have held the position of Pricing
20 Manager for Sprint since 2008. As the Pricing Manager, I oversee and am responsible for a
21 variety of projects related to pricing and analysis of Sprint services and customer facing
22 policies and processes, including the point-of-sale experience and documentation, and
23 certain operational aspects. I make this declaration based on my personal knowledge of
24 the information and records available to me as they are kept in the ordinary course of
25 business, information obtained from other employees upon whom I regularly rely in the
26 ordinary course of business, and/or my general knowledge, information and belief of the
27 business practices of Sprint. As the Pricing Manager, I am required to be familiar with the
28 types of customer documents and Sprint records attached to this declaration, and I have

1 knowledge of the exhibits as documents and records from Sprint systems and have reviewed
2 each exhibit related to the Sprint customers discussed below. If called as a witness, I could
3 and would testify competently to the contents of this declaration.

4 2. Sprint's Terms and Conditions of Service (the 'Terms & Conditions')
5 provide for, among other things, the mandatory arbitration of all disputes between Sprint
6 customers and Sprint. The Terms & Conditions specifically provide for arbitration on an
7 individual basis, and preclude arbitration on behalf of a class or on a representative basis.

8 3. Attached as Exhibit A is a true and correct copy of the version of Sprint's
9 Terms & Conditions, which became effective on January 1, 2010 ("the "2010 version").

10 4. Attached as Exhibit B is a true and correct copy of the version of Sprint's
11 Terms & Conditions, which became effective on September 9, 2011 (the "2011 version").

12 5. As set forth more fully below, Sprint goes to great lengths to inform
13 customers of its Terms & Conditions and the obligation to arbitrate disputes.

14 **PURCHASES THROUGH A SPRINT RETAIL STORE**

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16 6. Customers who purchase a Sprint handset and/or wireless services at a Sprint
17 retail store (whether initiating service for the first time or adding a new line of service) are
18 presented with a "menu" of service options and pricing in a document referred to as the
19 "service plan guide." The service plan thereafter chosen by the customer is incorporated by
20 reference into the customer's "Subscriber Agreement."

21 7. The service plan guide states that: "Your Agreement with Sprint Solutions,
22 Inc. and its affiliates doing business as Sprint, Sprint PCS or Nextel includes terms of your
23 service plan (including those outlined below) and the most recent Sprint Nextel Terms and
24 Conditions of Service ('T's and C's') - carefully read all these terms which include, among
25 other things a MANDATORY ARBITRATION of disputes provision."

26 8. Beginning in 2009, during the sales process in a Sprint retail store, certain
27 terms of service are also provided to the customer through an interactive electronic process
28 referred to as "BRAVO." BRAVO requires a customer to click-through a series of

1 electronic screens that inform the customer about, among other things, the general Terms &
2 Conditions and other terms of service, including certain Sprint policies, rate plan selection
3 information, and price information.

4 9. One particular BRAVO screen shown to new customers states that (1) the
5 customer is "entering into a binding legal agreement with Sprint;" (2) this agreement
6 incorporates the Terms & Conditions, available at the store or online; (3) "the terms set
7 forth in the Coverage Map brochures" are part of the agreement and "Please ask a
8 representative to provide you any part of your Agreement (plans, brochures, Ts&Cs or
9 Coverage Map brochures) that you may be missing;" and (4) "As set forth in the [Terms &
10 Conditions], you agree to a mandatory arbitration provision providing that (except for
11 matters properly brought to small claims court) any legal or equitable claim, controversy or
12 dispute of any kind between you and Sprint and/or any of its representatives, must be
13 resolved by final and binding arbitration." The bottom of this screen requires the customer
14 to click a box, expressly acknowledging the terms, and provide a signature following the
15 statement: "By signing below, you (ii) agree that you have read and agreed to all terms of
16 this Agreement, including the terms of your service plan and the Ts&Cs."

17 10. Another BRAVO screen shown to all customers instructs them to carefully
18 read the Terms & Conditions and informs them that "THIS CONTRACT CONTAINS A
19 BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE
20 PARTIES."

21 11. Attached as Exhibit C are true and correct copies of exemplar screen shots
22 that a customer must click-through to complete his transaction at a Sprint retail store.

23 12. At the conclusion of a transaction occurring at a Sprint retail store, a
24 "Transaction Summary" is automatically printed and given to the customer with the
25 purchase receipt and other Sprint collateral. Sprint retains an image of the Transaction
26 Summary on its internal system. The Transaction Summary includes the subscriber
27 agreement and information, highlighted terms of service, other disclosures and rate plan
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1 terms and pricing, as shown to and accepted by the customer. The Transaction Summary
2 expressly sets forth Sprint's return policy pursuant to which a new or existing customers
3 adding a new line of service who is "not completely satisfied with [Sprint's] network,
4 phones, plans or customer service," can, within 30 or 14 days—depending on the time
5 period, "simply cancel service and return your undamaged device" and "[Sprint will] give
6 you your money back." In addition, the Transaction Summary sets forth Sprint's return
7 policy for existing customers who upgrade to a new device, which provides that customers
8 can return the new undamaged device and Sprint will refund the device cost and activation
9 fee and cancel the new agreement.

10 13. The Transaction Summary also specifically refers to the "MANDATORY
11 ARBITRATION" provision that governs all disputes. The Transaction Summary further
12 explicitly references the entire Terms & Conditions and directs the customer to Sprint's
13 website for the most recent copy of the Terms & Conditions. In addition to being available
14 on Sprint's website, the Terms & Conditions are available from the Sprint retail stores in
15 paper booklet form.

16 14. In addition to the Transaction Summary, Sprint customers also receive a
17 register receipt, referred to as the "RMS receipt," at the conclusion of their transaction.
18 Underneath the heading "SUBSCRIBER AGREEMENT," the receipt contains language
19 that states: "You are entering into a binding legal agreement with Sprint on behalf of
20 yourself or your company Your Service Agreement ('Agreement') includes: . . . the
21 most recent General Terms and Conditions of Service." The RMS receipt also states,
22 "Please ask a representative to provide you any part of your Agreement (Plans brochure,
23 Ts&Cs, or Coverage Map brochures) that you may be missing," and also "MANDATORY
24 ARBITRATION: As set forth in the Ts&Cs, you agree to a mandatory arbitration provision
25 providing that (except for matters properly brought to small claims court) any legal or
26 equitable claim, controversy or dispute of any kind between you and Sprint and/or any of its
27 representatives, must be resolved by final and binding arbitration." The RMS receipt also
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1 informs a customer that "By signing below, you . . . agree that you have read and agreed to
2 all terms of this Agreement, including the terms of your service plan and the Ts&Cs."

3 15. Sprint encloses a copy of the Terms & Conditions inside the box of every
4 phone it sells, with the exception of the Apple iPhone. When a customer purchases an
5 Apple iPhone, a hard copy of the Terms & Conditions is provided to the customer as a take
6 away.

7 16. Shortly after the conclusion of each transaction Sprint mails or emails each
8 new customer and each existing customer who upgraded a device and/or entered into a new
9 subscriber agreement a "Contract-Confirming Letter." The Contract-Confirming Letter
10 includes information relating to the service plan, the date that the customer entered into the
11 Subscriber Agreement with Sprint, and the date that the Subscriber Agreement ends. The
12 letter also contains information about Sprint's Return & Exchange Policy: The Contract-
13 Confirming Letter also informs customers how to contact customer care and how to access
14 their account via Sprint.com.

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16 **Plaintiff Leron Levy**

17 17. Sprint's records reflect that Plaintiff Leron Levy upgraded to the M900
18 Slider Phone Kit ("Moment"), manufactured by Samsung, on April 30, 2010, through a
19 Sprint retail store. The operative Terms & Conditions in effect at that time was the 2010
20 version. *See* Exhibit A.

21 18. A copy of the Terms & Conditions is enclosed inside the box of every
22 Samsung phone sold for use on Sprint's wireless network. Thus, the box containing Mr.
23 Levy's Moment phone contained the 2010 version of the Terms & Conditions.

24 19. Attached as Exhibit D is a true and correct copy of the service plan guide
25 relating to Mr. Levy's April 30, 2010 transaction.

26 20. Attached as Exhibit E is a true and correct copy of the signed Transaction
27 Summary for Mr. Levy's contract dated April 30, 2010 for the Samsung Moment phone.
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1 The Transaction Summary states, "For the most recent copy of the Sprint Terms &
2 Conditions, please visit sprint.com/termsandconditions or dial *2."

3 21. Attached as Exhibit F is a true and correct copy of the RMS receipt that
4 Sprint retained relating to Mr. Levy's April 30, 2010 transaction.

5 22. Pursuant to Sprint's thirty (30) day return policy detailed in the Transaction
6 Summary, Mr. Levy returned his Samsung Moment on May 26, 2010 for another Samsung
7 Moment. A copy of the Terms & Conditions is enclosed inside the box of every Samsung
8 phone sold for use on Sprint's wireless network. Thus, the box containing Ms. Levy's
9 replacement Moment phone contained the 2010 version of the Terms & Conditions.

10 23. On September 4, 2011, Sprint sent Mr. Levy an invoice which informed him
11 that Sprint was making changes to its Terms & Conditions effective September 9, 2011, and
12 provided a link at which Mr. Levy was encouraged to carefully review them. Attached as
13 Exhibit G is a true and correct copy of the September 4, 2011 invoice. The change made
14 the 2011 version of the Terms & Conditions operative as to Mr. Levy. *See* Exhibit B.

15 24. Sprint's records reflect that Plaintiff Leron Levy upgraded to a Galaxy SIII
16 phone, manufactured by Samsung, on November 5, 2012, through a Sprint retail store. The
17 operative Terms & Conditions in effect at that time was the 2011 version. *See* Exhibit B.

18 25. A copy of the operative Terms & Conditions is enclosed inside the box of
19 every Samsung phone sold for use on Sprint's wireless network. Thus, the box containing
20 Mr. Levy's Galaxy SIII phone contained the operative Terms & Conditions in effect at the
21 time of purchase.

22 26. Attached as Exhibit H is a true and correct copy of the signed Transaction
23 Summary for Mr. Levy's contract dated November 5, 2012 for the Galaxy SIII phone.

24 27. Attached as Exhibit I is a true and correct copy of the RMS receipt that
25 Sprint retained relating to Mr. Levy's November 5, 2012 transaction.
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1 **Plaintiff Eric Thomas**

2 28. Sprint's records reflect that Plaintiff Eric Thomas upgraded to a Replenish
3 phone, manufactured by Samsung, on July 7, 2011, through a Sprint retail store. The
4 operative Terms & Conditions in effect at that time was the 2010 version. *See* Exhibit A.

5 29. Sprint's records further reflect that Mr. Thomas is a long-time Sprint
6 customer, and that he entered into at least three other contracts with Sprint since June 4,
7 2007. All of Sprint's Subscriber Agreements since at least 2004 have contained a
8 mandatory arbitration clause with class waiver.

9 30. A copy of the operative Terms & Conditions is enclosed inside the box of
10 every Samsung phone sold for use on Sprint's wireless network. Thus, the box containing
11 Mr. Thomas' Replenish phone contained the 2010 version of the Terms & Conditions.

12 31. Attached as Exhibit J is a true and correct copy of the service plan guide
13 relating to Mr. Thomas' July 7, 2011 transaction.

14 32. Attached as Exhibit K is a true and correct copy of the signed Transaction
15 Summary for Mr. Thomas' contract dated July 7, 2011 for the Samsung Replenish phone.
16 The Transaction Summary states, "A copy of the Ts&Cs is contained in your device box,
17 and is available at sprint.com/termsandconditions or you can obtain a paper copy at a Sprint
18 retail store."

19 33. Attached as Exhibit L is a true and correct copy of the RMS receipt that
20 Sprint retained relating to Mr. Thomas' July 7, 2011 transaction.

21 34. On August 28, 2011, Sprint sent Mr. Thomas an invoice which informed him
22 that Sprint was making changes to its Terms & Conditions effective September 9, 2011, and
23 provided a link at which Mr. Thomas was encouraged to carefully review them. Attached
24 as Exhibit M is a true and correct copy of the August 28, 2011 invoice. The change made
25 the 2011 version of the Terms & Conditions operative as to Mr. Thomas. *See* Exhibit B.
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1 **Plaintiff Brian Sandstrom**

2 35. Sprint's records reflect that Plaintiff Brian Sandstrom upgraded to an Evo
3 phone, manufactured by HTC, on November 17, 2010 as part of a multi-line account held
4 by Jeri Gile through a Sprint retail store. The operative Terms & Conditions in effect at that
5 time was the 2010 version. *See* Exhibit A. The Terms & Conditions apply to any "phone,
6 aircard, mobile broadband device, any other device, accessory or other product [that Sprint]
7 sells to [a customer] or that is active on [a customer's] account with [Sprint]." *Id.*

8 36. A copy of the operative Terms & Conditions is enclosed inside the box of
9 every HTC phone sold for use on Sprint's wireless network. Thus, the box containing Mr.
10 Sandstrom's HTC Evo phone contained the 2010 version of the Terms & Conditions.

11 37. Attached as Exhibit N is a true and correct copy of the service plan guide
12 relating to the November 17, 2010 transaction.

13 38. Attached as Exhibit O is a true and correct copy of the signed Transaction
14 Summary for the November 17, 2010 transaction, including Mr. Sandstrom's HTC Evo
15 phone. The Transaction Summary states, "A copy of the Ts&Cs is contained in your device
16 box, and is available at sprint.com/termsandconditions or you can obtain a paper copy at a
17 Sprint retail store."

18 39. Attached as Exhibit P is a true and correct copy of the RMS Receipt for the
19 November 17, 2010 transaction, including Mr. Sandstrom's HTC Evo phone. Both the
20 Transaction Summary and the RMS Receipt reflect the Agreement that Jeri Gile, as account
21 holder, entered into on Mr. Sandstrom's behalf.

22 40. Sprint sent a Contract-Confirming Letter related to the November 17, 2010
23 transaction, which included information relating to the service plan, and the start and end
24 Dates for the Service Agreement. The letter also contained a reminder regarding the "Sprint
25 Free Guarantee": "If for any reason you are not happy, just return your phone and deactivate
26 service" within thirty (30) days. Attached as Exhibit Q is a true and correct copy of the
27 Contract-Confirming Letter relating to the November 17, 2010 transaction.
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1 41. On August 14, 2011, Sprint sent an invoice on this account to the account
2 holder informing customers that Sprint was making changes to its Terms & Conditions
3 effective September 9, 2011, and provided a link at which the subscribers were encouraged
4 to carefully review them. Attached as Exhibit R is a true and correct copy of the August 14,
5 2011 invoice. The change made the 2011 version of the Terms & Conditions operative as to
6 Mr. Sandstrom. *See* Exhibit B.

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8 **Plaintiff Bobby Cline**

9 42. Sprint's records reflect that Plaintiff Bobby Cline purchased an LS670
10 Android phone, manufactured by LG, on May 6, 2011, through a Sprint retail store. The
11 operative Terms & Conditions in effect at that time was the 2010 version. *See* Exhibit A.

12 43. A copy of the operative Terms & Conditions is enclosed in the box of every
13 LG phone sold for use on Sprint's wireless network. Thus, the box containing Mr. Cline's
14 LG LS670 Android phone contained a copy of the 2010 Terms & Conditions.

15 44. Attached as Exhibit S is a true and correct copy of the service plan guide
16 relating to Mr. Cline's May 6, 2011 transaction.

17 45. Attached as Exhibit T is a true and correct copy of the signed Transaction
18 Summary for Mr. Cline's May 6, 2011 transaction. The Transaction Summary states, "A
19 copy of the Ts&Cs is contained in your device box, and is available at
20 sprint.com/termsandconditions or you can obtain a paper copy at a Sprint retail store."

21 46. Attached as Exhibit U is a true and correct copy of the RMS Receipt for Mr.
22 Cline's May 6, 2011 transaction.

23 47. Sprint sent a Contract-Confirming Letter related to Mr. Cline's May 6, 2011
24 transaction, which included information relating to the service plan, and the start and end
25 dates for Mr. Cline's Service Agreement. Attached as Exhibit V is a true and correct copy
26 of the Contract-Confirming Letter relating to Mr. Cline's May 6, 2011 transaction.

27 48. Sprint's records further reflect that on August 9, 2011, Mr. Cline changed the
28 phone number connected to his LG LS670 Android phone. During the transaction, Mr.

1 Cline again agreed to the Terms & Conditions, as memorialized in the Transaction
2 Summary related to the August 9, 2011 transaction, attached as Exhibit W.

3 49. On September 10, 2011, Sprint sent Mr. Cline an invoice which informed
4 him that Sprint was making changes to its Terms & Conditions effective September 9, 2011,
5 and provided a link at which Mr. Cline was encouraged to carefully review them. Attached
6 as Exhibit X is a true and correct copy of the September 10, 2011 invoice. The change
7 made the 2011 version of the Terms & Conditions operative as to Mr. Cline. *See* Exhibit B.

8 50. Sprint's records further reflect that on October 2, 2012, Mr. Cline opened a
9 new line on his account and purchased an iPhone, manufactured by Apple, and added a
10 phone line to his contract through telesales. During the telephone transaction, Mr. Cline
11 interacted with a Sprint representative who is trained to inform a customer that, among other
12 things, he is entering into a binding agreement with Sprint. The training requires the
13 representative to ask "Do you agree to the service agreement and [length of term] year term
14 with Sprint?" and the representative must hear an audible "Yes" from the customer before
15 proceeding. Moreover, the training requires a Sprint representative to inform a customer
16 about where to find the paper and electronic copies of the Terms & Conditions, including
17 the one provided in the handset's box. According to the training, the agent advises a
18 customer to "carefully read all terms of the agreement" and provides information related to
19 Sprint's 30-day guarantee.

20 51. Attached as Exhibit Y is a true and correct copy of the transcript of Mr.
21 Cline's October 2, 2012 telephone transaction. Mr. Cline's personal and credit card
22 information have been redacted.

23
24 **Plaintiff Patrick Kenny**

25 52. Sprint's records reflect that Mr. Kenny upgraded to an SPH-D700 phone,
26 manufactured by Samsung, on September 3, 2011, through a Sprint retail store. The
27 operative Terms & Conditions in effect at the time of the September 3, 2011 upgrade was
28 the 2010 version. *See* Exhibit A.

1 53. A copy of the operative Terms & Conditions is enclosed in the box of every
2 Samsung phone sold for use on Sprint's wireless network. Thus, the box containing Mr.
3 Kenny's Samsung SPH-D700 phone contained a copy of the 2010 Terms & Conditions.

4 54. Attached as Exhibit Z is a true and correct copy of the service plan guide
5 relating to Mr. Kenny's September 3, 2011 transaction.

6 55. Attached as Exhibit AA is a true and correct copy of the signed Transaction
7 Summary for Mr. Kenny's September 3, 2011 transaction. The Transaction Summary
8 states, "A copy of the Ts&Cs is contained in your device box, and is available at
9 sprint.com/termsandconditions or you can obtain a paper copy at a Sprint retail store."

10 56. Attached as Exhibit BB is a true and correct copy of the RMS Receipt for
11 Mr. Kenny's September 3, 2011 transaction.

12 57. On September 11, 2011, Sprint sent Mr. Kenny an invoice which informed
13 him that Sprint was making changes to its Terms & Conditions effective September 9, 2011,
14 and provided a link at which Mr. Kenny was encouraged to carefully review them.

15 Attached as Exhibit CC is a true and correct copy of the September 11, 2011 invoice. The
16 change made the 2011 version of the Terms & Conditions operative as to Mr. Kenny. *See*
17 Exhibit B.

18 58. Sprint's records further reflect that Mr. Kenny had multiple lines on his
19 account, for which he had entered into additional contracts with Sprint, all of which
20 contained the mandatory arbitration clause. For example, on August 8, 2010, Mr. Kenny
21 entered into a contract for an LG Touch phone through a Sprint retail store. Attached as
22 Exhibit DD is a true and correct copy of the Transaction Summary for the August 8, 2010
23 transaction, and attached as Exhibit EE is a true and correct copy of the RMS Receipt for
24 Mr. Kenny's August 8, 2010 transaction. The September 11, 2011 invoice relates to all
25 lines on the account, including the line affected by the August 8, 2010 transaction.
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1 **PURCHASES THROUGH A SPRINT AUTHORIZED RETAIL LOCATION**

2 59. Customers who purchase Sprint's handsets and wireless service at a Sprint
3 authorized retailer, such as Radio Shack, are also presented with the service plan guide.
4 The service plan guide states that "Your Agreement with Sprint Solutions, Inc. and its
5 affiliates doing business as Sprint, Sprint PCS or Nextel includes terms of your service plan
6 (including those outlined below) and the most recent Sprint Nextel Terms and Conditions of
7 Service (T's and C's') - carefully read all these terms which include, among other things a
8 MANDATORY ARBITRATION of disputes provision."

9 60. During the sales transaction, the customer initials and signs a Subscriber
10 Agreement signifying that they have received Sprint's Terms & Conditions and that they
11 agree to adhere to their terms. The Subscriber Agreement also contains information related
12 to Sprint's 30 day satisfaction guarantee, and it recommends that the customer "carefully
13 review" the documents that make up the Subscriber Agreement, including the Terms &
14 Conditions and "other important terms" related to "mandatory arbitration of disputes." The
15 Subscriber Agreement is electronically populated by the sales representative, then printed
16 and signed by the customer. A copy is provided to the customer, who also receives other
17 Sprint-related information, and a copy of the Subscriber Agreement is stored by the retailer.

18 61. A customer also obtains a hard-copy of the operative Terms & Conditions in
19 the handset box. The Terms & Conditions are additionally available from the authorized
20 national retailer in booklet form.

21 62. Shortly after the conclusion of each transaction Sprint mails or emails each
22 new customer and each existing customer who upgraded a device and/or entered into a new
23 subscriber agreement a "Contract-Confirming Letter." The Contract-Confirming Letter
24 includes information relating to the service plan, the date that the customer entered into the
25 Subscriber Agreement with Sprint, and the date that the Subscriber Agreement ends. The
26 letter also contains information about Sprint's Return & Exchange Policy: The Contract-
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1 Confirming Letter also informs customers how to contact customer care and how to access
2 their account via Sprint.com.

3
4 **Plaintiff Luke Szulczewski**

5 63. Sprint's records reflect that Plaintiff Luke Szulczewski purchased a Moment
6 phone, manufactured by Samsung, on January 8, 2010, through a Sprint retail store. The
7 operative Terms & Conditions in effect at that time was the 2010 version. *See* Exhibit A.

8 64. A copy of the operative Terms & Conditions is enclosed inside the box of
9 every Samsung phone sold for use on Sprint's wireless network. Thus, the box containing
10 Mr. Szulczewski's Samsung Moment phone contained the 2010 version of the Terms &
11 Conditions.

12 65. Attached as Exhibit FF is a true and correct copy of the service plan guide
13 relating to Mr. Szulczewski's January 8, 2010 transaction.

14 66. Attached as Exhibit GG is a true and correct copy of the signed Transaction
15 Summary for Mr. Szulczewski's January 8, 2010 contract for the Samsung Moment phone.

16 67. Attached as Exhibit HH is a true and correct copy of the RMS Receipt that
17 Sprint retained relating to Mr. Szulczewski's January 8, 2010 transaction.

18 68. Sprint sent Mr. Szulczewski a Contract-Confirming Letter which included
19 information relating to his service plan, and the start and end dates of his Subscriber
20 Agreement. The letter also a reminder regarding Sprint's 30-day satisfaction guarantee.
21 Attached as Exhibit II is a true and correct copy of the Contract-Confirming Letter relating
22 to Mr. Szulczewski's January 8, 2010 transaction.

23 69. Sprint's records further reflect that Mr. Szulczewski thereafter upgraded to
24 an Evo phone, manufactured by HTC on November 17, 2010 through a Sprint national
25 retailer, Best Buy. The 2010 version of the Terms & Conditions remained operative at that
26 time. *See* Exhibit A.

27 70. Attached as Exhibit JJ is a true and correct copy of the signed Subscriber
28 Agreement relating to Mr. Szulczewski's November 17, 2010 transaction.

1 71. A copy of the operative Terms & Conditions is enclosed inside the box of
2 every HTC phone sold for use on Sprint's wireless network. Thus, the box containing Mr.
3 Szulczewski's HTC Evo phone contained the operative Terms & Conditions in effect at the
4 time of purchase.

5 72. Sprint sent Mr. Szulczewski a Contract-Confirming Letter which included
6 information relating to his service plan, the start and end dates of his Subscriber Agreement.
7 The letter also contained a reminder regarding Sprint's 30-day satisfaction guarantee.
8 Attached as Exhibit KK is a true and correct copy of the Contract-Confirming Letter
9 relating to Mr. Szulczewski's November 17, 2010 transaction.

10 73. On September 11, 2011, Sprint sent Mr. Szulczewski an invoice which
11 reminded him that Sprint was making changes to its Terms & Conditions effective
12 September 9, 2011, and provided a link at which Mr. Szulczewski was encouraged to
13 carefully review them. Attached as Exhibit LL is a true and correct copy of the September
14 11, 2011 invoice. The change made the 2011 version of the Terms & Conditions operative
15 as to Mr. Szulczewski. *See* Exhibit B.

16 74. Sprint's records further reflect that on October 29, 2012, Mr. Szulczewski
17 upgraded to a Samsung L900 through the internet at Sprint.com. When Mr. Szulczewski
18 purchased his Samsung L900 on Sprint's website, he completed a "click-through" process
19 where he agree to, among other things, the Terms & Conditions. Specifically, Mr.
20 Szulczewski confirmed and acknowledged his agreement to the Subscriber Agreement and
21 the Terms & Conditions by clicking on boxes on his computer screen. The operative Terms
22 & Conditions in effect at that time was the 2011 version. *See* Exhibit B.

23 75. During the web transaction Mr. Szulczewski viewed the entire Terms &
24 Conditions and could scroll through that document to review. Mr. Szulczewski therefore
25 could scroll through and review the full arbitration provision. Directly underneath the box
26 in which the Terms & Conditions appeared was the following text: "Yes, I acknowledge
27 that I have read, understand and agree to the Terms and Conditions of my new Service
28

1 Agreement associated with my order....” Mr. Szulczewski was required to check a box
2 acknowledging his acceptance before he could proceed to the next screen and complete the
3 transaction. If Mr. Szulczewski had not checked the box acknowledging the agreement, he
4 would not have been able to complete the transaction.

5 76. Throughout the transaction a link to the full set of Terms & Conditions was
6 provided at the bottom of each page.

7
8 **Plaintiff Clarissa Portales**

9 77. Sprint’s records reflect that Plaintiff Clarissa Portales purchased an A9292
10 WT Bar phone, manufactured by HTC, on January 6, 2011, through a Sprint authorized
11 retailer. The operative Terms & Conditions in effect at that time was the 2010 version. *See*
12 Exhibit A.

13 78. Attached as Exhibit MM is a true and correct copy of the signed Subscriber
14 Agreement relating to Ms. Portales’ January 6, 2011 transaction.

15 79. A copy of the operative Terms & Conditions is enclosed inside the box of
16 every HTC phone sold for use on Sprint’s wireless network. Thus, the box containing Ms.
17 Portales’ HTC A9292 WT Bar phone contained the 2010 version of the Terms &
18 Conditions.

19 80. On September 5, 2011, Sprint sent Ms. Portales an invoice which reminded
20 her that Sprint was making changes to its Terms & Conditions effective September 9, 2011,
21 and provided a link at which Ms. Portales was encouraged to carefully review them.
22 Attached as Exhibit NN is a true and correct copy of the September 5, 2011 invoice. The
23 change made the 2011 version of the Terms & Conditions operative as to Ms. Portales. *See*
24 Exhibit B.

25 81. Sprint’s records further reflect that Ms. Portales also held two additional
26 lines with service agreements for which she would have also agreed to the applicable Terms
27 & Conditions, including the mandatory arbitration clause.
28

1 **Plaintiff Colleen Fischer**

2 82. Sprint's records reflect that Plaintiff Colleen Fischer purchased an Optimus
3 phone, manufactured by LG, on June 27, 2011 through Radio Shack. The operative Terms
4 & Conditions in effect at that time was the 2010 version. *See* Exhibit A.

5 83. Attached as Exhibit OO is a true and correct copy of the Subscriber
6 Agreement relating to Ms. Fischer's June 27, 2011 transaction.

7 84. A copy of the operative Terms & Conditions is enclosed inside the box of
8 every LG phone sold for use on Sprint's wireless network. Thus, the box containing Ms.
9 Fischer's LG Optimus phone contained the 2010 version of the Terms & Conditions.

10 85. Attached as Exhibit PP is a true and correct copy of the service plan guide
11 that Ms. Fischer would have been presented with during her June 27, 2011 transaction.

12 86. Sprint sent Ms. Fischer a Contract-Confirming Letter which included
13 information relating to her service plan, and the start and end dates of her Subscriber
14 Agreement. The letter also contained a reminder regarding Sprint's 30-day satisfaction
15 guarantee. Attached as Exhibit QQ is a true and correct copy the Contract-Confirming
16 Letter relating to Ms. Fischer's June 27, 2011 transaction.

17 87. On August 31, 2011, Sprint sent Ms. Fischer an invoice which reminded her
18 that Sprint was making changes to its Terms & Conditions effective September 9, 2011, and
19 provided a link at which Ms. Fischer was encouraged to carefully review them. Attached as
20 Exhibit RR is a true and correct copy of the August 31, 2011 invoice. The change made the
21 2011 version of the Terms & Conditions operative as to Ms. Fischer. *See* Exhibit B.

22 **PURCHASES THROUGH THE INTERNET**

23
24 **Plaintiff Michael Allan**

25 88. Sprint's records reflect that Plaintiff Michael Allan purchased an Evo phone,
26 manufactured by HTC, through the Internet at Sprint.com on August 11, 2011. When Mr.
27 Allan purchased his HTC Evo phone on Sprint's website, he completed a "click-through"
28 process in which he agreed to, among other things, Sprint's Terms & Conditions.

1 Specifically, Mr. Allan confirmed and acknowledged his agreement to the Subscriber
2 Agreement and the Terms & Conditions by clicking on boxes on his computer screen. The
3 operative Terms & Conditions in effect at that time was the 2010 version. *See* Exhibit A.

4 89. During the web transaction, Mr. Allan was presented with the entire Terms
5 & Conditions and he could scroll through that document to review it. Mr. Allan therefore
6 could scroll through and review the full arbitration provision. Directly underneath the box
7 in which the Terms & Conditions appeared was the following text: "Yes, I acknowledge
8 that I have read, understand and agree to the Terms and Conditions of my new Service
9 Agreement associated with my order...." Mr. Allan was required to check a box
10 acknowledging his assent to this statement before he could proceed to the next screen and
11 complete the transaction. If Mr. Allan had not checked the box acknowledging his
12 agreement, he would not have been able to complete the transaction.

13 90. Throughout the transaction a link to the full set of Terms & Conditions was
14 provided at the bottom of each page.

15 91. At the conclusion of the transaction, an email receipt was sent to Mr. Allan
16 referencing Sprint's 30-day guarantee and how to access Sprint account information online,
17 including the Terms & Conditions.

18 92. Attached as Exhibit SS are true and correct copies of screen shots of the web
19 pages Mr. Allan would have viewed and clicked-through when he purchased his HTC Evo
20 phone through Sprint's web sales system at Sprint.com.

21 93. Attached as Exhibit TT is a true and correct copy of a sample receipt
22 received by a customer who purchased or upgraded a handset through Sprint's web sales
23 system at Sprint.com. Mr. Allan would have received a receipt like this one.

24 94. A copy of the operative Terms & Conditions is enclosed inside the box of
25 every HTC phone sold for use on Sprint's wireless network. Thus, the box shipped to Mr.
26 Allan containing his HTC Evo phone contained the 2010 version of the Terms &
27 Conditions.
28

1 95. Sprint issued Mr. Allan's first invoice on August 15, 2011. That invoice
2 noted that Sprint was making changes to its Terms & Conditions effective September 9,
3 2011, and provided a link at which Mr. Allan was encouraged to carefully review them. A
4 true and correct copy of that invoice is attached as Exhibit UU. The change made the 2011
5 version of the Terms & Conditions operative as to Mr. Allan. *See* Exhibit B.

6 96. According to Sprint's records, Mr. Allen's account was terminated on
7 August 2, 2012 for non-payment.

8
9 **Plaintiff Ryan McKeen**

10 97. Sprint's records reflect that Plaintiff Ryan McKeen purchased an Epic phone,
11 manufactured by Samsung, on September 20, 2011 through an Internet dealer. When Mr.
12 McKeen purchased his Samsung Epic phone online, he would have had to complete a click-
13 through process, in which he agreed to, among other things, Sprint's operative Terms &
14 Conditions. Specifically, Mr. McKeen would have been required to confirm and
15 acknowledge his agreement to the Subscriber Agreement and the Terms & Conditions by
16 clicking on boxes on his computer screen. The operative Terms & Conditions in effect at
17 that time was the 2011 version. *See* Exhibit B.

18 98. During the web transaction, Mr. McKeen was presented with the entire
19 Terms & Conditions and he could scroll through that document to review it. Mr. McKeen
20 therefore could scroll through and review the full arbitration provision. Directly underneath
21 the box in which the Terms & Conditions appeared was the following text: "Yes, I
22 acknowledge that I have read, understand and agree to the Terms and Conditions of my new
23 Service Agreement associated with my order...." Mr. McKeen was required to check a box
24 acknowledging his assent to this statement before he could proceed to the next screen and
25 complete the transaction. If Mr. McKeen had not checked the box acknowledging his
26 agreement, he would not have been able to complete the transaction.

1 99. Attached as Exhibit VV is a true and correct copy of a screen shot of a web
2 page that Mr. McKeen would have been presented with and required to click-through when
3 he purchased his Samsung Epic phone through the internet dealer's sales process.

4 100. A copy of the operative Terms & Conditions is enclosed inside the box of
5 every Samsung phone sold for use on Sprint's wireless network. Thus, the box shipped to
6 Mr. McKeen containing his Samsung Epic phone contained the 2011 version of the Terms
7 & Conditions.

8 101. On or about September 23, 2011, Sprint sent Mr. McKeen a Contract-
9 Confirming Letter which included information relating to his service plan, and the start and
10 end dates of his Subscriber Agreement. The letter also contained a reminder regarding
11 Sprint's 30-day satisfaction guarantee. Attached as Exhibit WW is a true and correct copy
12 of the Contract-Confirming Letter relating to Mr. McKeen's September 20, 2011
13 transaction.

14
15 **Plaintiff Matthew Hiles**

16 102. Sprint's records reflect that Plaintiff Matthew Hiles purchased a Marquee
17 phone, manufactured by LG, through the Internet at Sprint.com on September 28, 2011.
18 When Mr. Hiles purchased his LG Marquee phone on Sprint's website, he completed a
19 "click-through" process in which he agreed to, among other things, Sprint's Terms &
20 Conditions. Specifically, Mr. Hiles confirmed and acknowledged his agreement to the
21 subscriber agreement and the Terms & Conditions by clicking on boxes on his computer
22 screen. The operative Terms & Conditions in effect at that time were the 2011 version. *See*
23 Exhibit B.

24 103. During the web transaction, Mr. Hiles was presented with the Terms &
25 Conditions and he could scroll through that document to review it. Mr. Hiles could
26 therefore scroll through and review the full arbitration provision. Directly underneath the
27 box in which the Terms & Conditions appeared was the following text: "Yes, I
28 acknowledge that I have read, understand and agree to the Terms and Conditions of my new

1 Service Agreement associated with my order” Mr. Hiles was required to check a box
2 acknowledging his assent to this statement before he could proceed to the next screen and
3 complete the transaction. If Mr. Hiles had not checked the box acknowledging his
4 agreement, he would not have been able to complete the transaction. At the conclusion of
5 the transaction, an email receipt was sent to Mr. Hiles referencing Sprint’s 30-day guarantee
6 and how to access Sprint account information online, including the Terms & Conditions.

7 104. Throughout the transaction, a link to the full Terms & Conditions was
8 provided at the bottom of each page.

9 105. Attached as Exhibit SS are true and correct copies of screen shots of the web
10 pages Mr. Hiles would have viewed and clicked-through when he purchased his LG
11 Marquee phone through Sprint’s web sales system at Sprint.com.

12 106. Attached as Exhibit TT is a true and correct copy of a sample receipt
13 received by a customer who purchased or upgraded a handset through Sprint’s web sales
14 system at Sprint.com. Mr. Hiles would have received a receipt like this one.

15 107. A copy of the operative Terms & Conditions is enclosed inside the box of
16 every LG phone sold for use on Sprint’s wireless network. Thus, the box shipped to Mr.
17 Hiles containing his LG Marquee phone contained the 2011 version of the Terms &
18 Conditions.

19 108. On or about September 30, 2011, Sprint sent Mr. Hiles a Contract-
20 Confirming Letter which included information relating to his service plan, and the start and
21 end dates of his Subscriber Agreement. The letter also contained a reminder regarding
22 Sprint’s 30-day satisfaction guarantee. Attached as Exhibit XX is a true and correct copy of
23 the Contract-Confirming Letter sent to Mr. Hiles relating to his September 28, 2011
24 transaction.

25 109. According to Sprint’s records, Mr. Hiles account was cancelled on May 7,
26 2012 due to non-payment.

1 **Plaintiff Dao Phong**

2 110. Sprint's records reflect that Plaintiff Dao Phong purchased a Centro phone,
3 manufactured by Palm, through the internet at Sprint.com on April 9, 2008. Thereafter, Mr.
4 Phong upgraded to a Treo phone, manufactured by Palm, through Sprint's customer care
5 department on March 27, 2009. Mr. Phong was asked to, and did, agree to Sprint's
6 operative Terms & Conditions in connection with those purchases. The Terms &
7 Conditions in effect at the time of both purchases was the 2008 version. A true and correct
8 copy of the Terms & Conditions in effect during 2008 are attached as Exhibit YY.

9 111. Sprint's records reflect that on July 25, 2010, Mr. Phong transferred his line
10 of service to a different account, for which the account holder was and remains Ms. Angie
11 Phong. Sprint's records further reflect that three days after the transfer, on July 28, 2010,
12 Mr. Phong upgraded to an Evo phone, manufactured by HTC, through an indirect dealer,
13 FoneArt Communications. The Terms & Conditions in effect at the time of the transaction
14 were the 2010 version. See Exhibit A.

15 112. A copy of the operative Terms & Conditions is enclosed inside the box of
16 every HTC phone sold for use on Sprint's wireless network. Thus, the box shipped to Mr.
17 Phong containing his HTC Evo phone contained the 2010 version of the Terms &
18 Conditions.

19 113. As account holder, Ms. Angie Phong would have entered into an agreement
20 with Sprint on behalf of Mr. Phong in connection with the July 28, 2010 upgrade. Attached
21 as Exhibit ZZ is a true and correct copy of a sample contract a customer who purchased or
22 upgraded a handset through an indirect retailer would have signed at the time Mr. Phong
23 upgraded to the HTC Evo phone. Ms. Angie Phong would have signed an agreement on
24 Mr. Phong's behalf substantially similar to the sample contract.

25 114. Sprint sent Ms. Angie Phong a Contract-Confirming Letter which included
26 information relating to her service plan, and the start and end dates of her Subscriber
27 Agreement. The letter also contained a reminder regarding Sprint's 30-day satisfaction
28

1 guarantee. Attached as Exhibit AAA is a true and correct copy of the Contract-Confirming
2 Letter sent to Ms. Phong relating to Mr. Phong's July 28, 2010 upgrade transaction under
3 her account.

4 115. On August 15, 2011, Sprint sent Ms. Phong an invoice regarding her
5 account, including the Mr. Phong's line, which informed her that Sprint was making
6 changes to its Terms & Conditions effective September 9, 2011, and provided a link at
7 which Ms. Phong was encouraged to carefully review them. Attached as Exhibit BBB is a
8 true and correct copy of the August 15, 2011 invoice. The change made the 2011 version of
9 the Terms & Conditions operative as to Ms. Phong. *See* Exhibit B.

10 116. Sprint's records further reflect that on September 30, 2012, Mr. Phong and
11 Ms. Phong each upgraded to an iPhone 5, manufactured by Apple, through the Internet at
12 Sprint.com. When Mr. and Ms. Phong purchased their Apple iPhone 5s on Sprint's
13 website, they completed a "click-through" process where they agreed to, among other
14 things, the Terms & Conditions. Specifically, Mr. and Ms. Phong confirmed and
15 acknowledged their agreement to the Subscriber Agreement and the Terms & Conditions by
16 clicking on boxes on their computer screen. The operative Terms & Conditions in effect at
17 that time was the 2011 version. *See* Exhibit B.

18 117. During the web transaction, Mr. and Ms. Phong were presented with the
19 Terms & Conditions and they could scroll through that document to review it. Therefore,
20 Mr. and Ms. Phong could scroll through and review the full arbitration provision. Directly
21 underneath the box where the Terms & Conditions appeared was the following text: "I've
22 read and agree to the terms and conditions of my order. THIS CONTRACT CONTAINS A
23 BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE
24 PARTIES." Mr. and Ms. Phong were required to check a box acknowledging their assent to
25 this statement before they could proceed to the next screen and complete the transaction. If
26 Mr. and Ms. Phong had not checked the box acknowledging their agreement, they would
27 not have been able to complete the transaction.
28

1 118. Sprint sent Ms. Phong a Contract-Confirming Letter which included
2 information relating to her service plan, and the start and end dates of her Subscriber
3 Agreement. The letter also contained a reminder regarding Sprint's 30-day satisfaction
4 guarantee. Attached as Exhibit CCC is a true and correct copy of the Contract-Confirming
5 Letter sent to Ms. Phong relating to Mr. Phong's September 30, 2012 upgrade to an iPhone
6 5 under her account.
7

8 **PURCHASES THROUGH THE TELEPHONE**

9 **Plaintiff Shawn Grisham**

10 119. Sprint's records reflect that on March 23, 2011, Plaintiff Shawn Grisham
11 upgraded to an SPH-D700 Qwery phone, manufactured by Samsung, through telesales.
12 During the telephone transaction, Mr. Grisham interacted with a Sprint representative who
13 is trained to inform a customer that, among other things, he is entering into a binding
14 agreement with Sprint. The training requires the representative to ask "Do you agree to the
15 service agreement and [length of term] year term with Sprint?" and the representative must
16 hear an audible "Yes" from the customer before proceeding. Moreover, the training
17 requires a Sprint representative to inform a customer about where to find the paper and
18 electronic copies of the Terms & Conditions, including the one provided in the handset's
19 box. According to the training, the agent advises a customer to "carefully read all terms of
20 the agreement" and provides information related to Sprint's 30-day guarantee.

21 120. Attached as Exhibit DDD is a true and correct transcript of the March 23,
22 2011 telephone transaction in which Mr. Grisham clearly agreed to the Sprint Terms &
23 Conditions, and the Sprint representative clearly followed the required training process
24 described above. The transcript has been redacted to protect personal information, such as
25 credit card number, security code, expiration date and billing address.

26 121. A copy of the operative Terms & Conditions is enclosed in the box of every
27 Samsung phone sold for use on Sprint's wireless network. Thus, the box containing Mr.
28

1 Grisham's Samsung SPH-D700 Qwerty phone contained a copy of the 2010 version of the
2 Terms & Conditions.

3 122. Sprint sent a Contract-Confirming Letter to Mr. Grisham relating to his
4 March 23, 2011 telephone transaction, which included information relating to the service
5 plan, and the start and end dates of his Subscriber Agreement. The letter also contained a
6 reminder regarding Sprint's 30-day satisfaction guarantee. Attached as Exhibit EEE is a
7 true and correct copy of the Contract-Confirming Letter relating to Mr. Grisham's March
8 23, 2011 transaction.

9 123. On August 27, 2011 Sprint sent the account holder on Mr. Grisham line an
10 invoice which informed him that Sprint was making changes to its Terms & Conditions
11 effective September 9, 2011, and provided a link at which Mr. Grisham was encouraged to
12 carefully review them. Attached as Exhibit FFF is a true and correct copy of the August 27,
13 2011 invoice. The change made the 2011 version of the Terms & Conditions operative as to
14 Mr. Grisham. *See* Exhibit B.

15 124. Prior to the March 23, 2011 transaction, Mr. Grisham also previously entered
16 into Subscriber Agreements with Sprint during transactions on December 21, 2010 and
17 September 22, 2009, both through a Sprint authorized retailer. Each of those Subscriber
18 Agreements included a mandatory arbitration clause.

19
20 **UNABLE TO LOCATE PLAINTIFF MARK LANING**

21 125. Sprint has no record that Plaintiff Mark Laning was ever a Sprint customer
22 on the line provided in this litigation, and has no record of the telephone number he has
23 provided through his counsel. Sprint does not sell, and has never sold, the Pantech P500
24 phone.

25 **SPRINT'S PRIVACY POLICY**

26 126. Sprint maintains a Privacy Policy. The Privacy Policy is referenced in the
27 Terms & Conditions, which informs each customer that "Our Privacy Policy is available on
28

1 our website. To review the policy, visit www.sprint.com/legal/privacy.html. This policy
2 may change from time to time, so review it with regularity and care.”

3 127. A link to the Privacy Policy is also available to customers on the Sprint home
4 page, and Sprint maintains a page of its website dedicated to privacy FAQs.

5 128. The Transaction Summary provided to Sprint customers at a Sprint retail
6 store and the Subscriber Agreement provided to Sprint customers at an authorized or
7 national retailer informs the customer that: “Your privacy is important to us. To read our
8 Privacy Policy and learn about your privacy choices - go to sprint.com/privacy.”
9 Furthermore, each invoice sent to Sprint customers informs them: “You can access Sprint’s
10 privacy policy online at sprint.com.”

11 129. Customers can also access the Privacy Policy on their device through the
12 SprintZone application.

13 130. Attached as Exhibit GGG is a true and correct copy of Sprint’s Privacy
14 Policy, which was in effect from March 1, 2010 to October 2012.

15 131. In October 2012, Sprint rolled out a new Privacy Policy, a true and correct
16 copy of which is attached as Exhibit HHH. Sprint informed customers of the changes to the
17 Privacy Policy through a message on their October 2012 invoices, an insert in their
18 November 2012 invoice, an email to certain customers in November, a message to
19 customers through SprintZone on their device, a notice on the Sprint.com/privacy, Sprint
20 Mobile Advertising and Analytics program landing page, an update to the Privacy FAQs
21 and a banner on sprint.com that advised customers of the new Privacy Policy.
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23
24 I declare under penalty of perjury under the laws of the United
25 States of America that the foregoing is true and correct.
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DATED: 11-19, 2012

By Stephanie Miller
Stephanie Miller